

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services Contracts
Non-Published Rates

Docket No. MC2015-23

Competitive Product Prices
Global Expedited Package Services Contracts
Non-Published Rates 5 (MC2015-23)

Docket No. CP2015-29

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD GLOBAL EXPEDITED PACKAGE
SERVICES—NON-PUBLISHED RATES (GEPS—NPR) 5
TO THE COMPETITIVE PRODUCT LIST

(January 7, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2314.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service request to add Global Expedited Package Services—Non-Published Rates (GEPS—NPR) 5 to the competitive product list.²

Included as an attachment to the Request is an application for non-public treatment of materials filed under seal (Attachment 1); a public (redacted) version of Governors' Decision No. 11-6, which authorizes the Request (Attachment 2A); a revised version of section 2510.8 of the Mail Classification Schedule (MCS) concerning Global Expedited Package Services—Non-Published Rates (Attachment 2B); a public version of the GEPS—NPR 5 Management Analysis; (Attachment 2C); the Minimum and Maximum prices for PMEI, PMI, and GXG under GEPS—NPR 5 contracts, which are

¹ PRC Order No. 2314, Notice and Order Concerning the Addition of Global Expedited Package Services—Non-Published Rates Contract 5 to the Competitive Product List, December 31, 2014.

² Request of United States Postal Service to Add Global Expedited Package Services—Non-Published Rates 5 (GEPS—NPR 5) to the Competitive Products List and Notice of Filing GEPS—NPR 5 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, December 24, 2014 (Request).

included in the financial workpapers (Attachment 2D); a certified statement of compliance with 39 U.S.C. § 3633(a) (Attachment 2E); a Statement of Supporting Justification (Statement), as required by 39 C.F.R. §3020.32 (Attachment 3); and, a public version of the GEPS—NPR 5 Model Contract (Attachment 4). The Request also includes non-public (unredacted) versions of Governors’ Decision No. 11-6, the GEPS—NPR 5 Model Contract, the Management Analysis and the financial workpapers (model), which are filed separately under seal.

Background. The Postal Service’s Governors previously authorized prices and classifications not “of general applicability” for the GEPS—NPR and GEPS—NPR 2 products pursuant to Governors’ Decision Nos. 10-2 and No. 10-7, respectively.³ Pursuant to Governors’ Decision No. 11-6, prices and classifications were established for the GEPS—NPR 3, GEPS—NPR 4, and GEPS—NPR 4 Version 2 products. Request, Attachment 2A (Governors’ Decision No. 11-6).

In Order No. 593, the Commission approved the Postal Service’s request to add the GEPS – NPR 1 product to the competitive product list.⁴ Subsequently, in Order No. 630, the Commission approved the addition of the GEPS – NPR 2 product to the competitive product list.⁵ In Order Nos. 1161 and 1625, the Commission added the GEPS – NPR 3 and GEPS – NPR 4 products to the competitive product list,

³ See Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classification for Global Expedited Package Services - Non-Published Rates (Governors’ Decision No. 10-2), July 14, 2010, Attachment 2 to Notice and Request of the United States Postal Service Concerning Global Expedited Package Services – Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, Docket Nos. MC2010-29 and CP2010-72, July 16, 2010; *and* Governors’ Decision No. 10-7, Attachment 2 of Notice of the United States Postal Service concerning Global Expedited Package Services – Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, PRC Docket No. CP2011-45, December 15, 2010;

⁴ See PRC Order No. 593, Order Approving Postal Service Request to Add Global Expedited Package Services - Non-Published Rates 1 to the Competitive Product List, Docket Nos. MC2010-29 and CP2010-72, November 22, 2010.; *and* PRC Order No. 630, Order Adding Global Expedited Package Services-Non-Published Rates 2 to the Competitive Product List, Docket No. CP2011-45, December 30, 2012.

⁵ See PRC Order No. 630, Order Adding Global Expedited Package Services-Non-Published Rates 2 to the Competitive Product List, Docket No. CP2011-45, December 30, 2012.

respectively.⁶ Most recently, in Order No. 1959, the Commission approved the addition of the GEPS – NPR 4 Version 2 product to the competitive product list.⁷

The GEPS—NPR 1 and GEPS—NPR 2 products offered incentive pricing to mailers that tender merchandise and other items for delivery in foreign destinations using Priority Mail Express International (PMEI) and Priority Mail International (PMI) pursuant to a contractual commitment. Request at 5. To qualify for a GEPS—NPR 1 or GEPS—NPR 2 contract, mailers must be capable, on an annualized basis, of paying at least \$50,000 in international postage to the Postal Service.⁸ Beginning with the GEPS—NPR 3 product, incentive pricing was offered for Global Express Guaranteed (GXG), as well as PMEI and PMI.⁹ To qualify for a GEPS—NPR 3, GEPS—NPR 4, GEPS—NPR 4 Version 2, and now GEPS—NPR 5 contract, mailers must be capable, on an annualized basis, of paying at least \$200,000 in GXG, PMEI, and PMI postage to the Postal Service. *Id.*, Attachment 2B. Pursuant to such contracts, mailers must also commit to provide a varying minimum level of postage from the use of GXG, EMI and PMI on an annualized basis. *Id.*

Current Proceeding. The Request follows from the Postal Service’s decision to revise the Management Analysis, financial model, and the Model Contract for the GEPS—NPR 5 Product. Request at 6. The Postal Service states that the major differences between the GEPS—NPR 4 Version 2 and GEPS – NPR 5 products are in the Management Analysis, the financial model, “and the rates themselves.” *Id.* at 7. The Postal Service also maintains that differences between the GEPS—NPR 4 Version 2 model contract and the GEPS—NPR 5 Model Contract are “relatively minor,” and do not affect the

⁶ See PRC Order No. 1161, Order Approving Postal Service Request to Add Global Expedited Package Services – Non-Published Rates 3 (GEPS – NPR 3) to Competitive Product List, Docket Nos. MC2012-4 and CP2012-8, January 20, 2012; *and* PRC Order No. 1625, Order Adding Global Expedited Package Services – Non-Published Rates (GEPS – NPR 4) to Competitive Product List, Docket Nos. MC2013-27 and CP2013-35, January 16, 2013.

⁷ See PRC Order No. 1959, Order Approving Change in Prices for Global Package Services—Non-Published Rates 4 (GEPS—NPR 4), January 10, 2014.

⁸ Notice of the United States Postal Service Concerning Global Expedited Package Services—Non-Published rates and Application for Non-Public Treatment of Materials Filed Under Seal, Docket Nos. MC2010-29 and CP2010-72, July 16, 2010, Attachment 2.

⁹ Request of United States Postal Service to Add Global Expedited Package Services—Non-Published Rates 3 (GEPS—NPR 3) to the Competitive Products List and Notice of Filing GEPS—NPR 3 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, Docket Nos. MC2012-4 and CP2012-8, December 20, 2011, Attachment 2B

market characteristics of the GEPS—NPR product. *Id.* at 6-7. Based upon the documentation presented, the Postal Service therefore asks that the Commission add the GEPS—NPR 5 product to the competitive product list to reflect the change in non-generally applicable rates for this competitive product. *Id.* at 11.

COMMENTS

The Public Representative has reviewed the Postal Service's Request, the Statement of Supporting Justification and the revised version of section 2510.8 of the MCS, as well as the GEPS—NPR 5 Model Contract, the Management Analysis and the financial workpapers (model) filed under seal. Based upon that review, the Public Representative concludes that the GEPS—NPR 5 product should be added to the competitive product list. In addition, this initial review suggests that the discount prices developed from the financial model should generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633.

Pursuant to the Postal Service's Request, the Commission must determine whether the GEPS—NPR 5 product should be added to the competitive product list, in conformance with 39 U.S.C. § 3642(b). The Commission must also determine whether the discount prices resulting from methodology presented in the GEPS—NPR 5 financial model generate sufficient revenues to satisfy 39 U.S.C. § 3633.

39 U.S.C. § 3642(b). The applicable criteria of 39 U.S.C. § 3642(b) are whether the proposed product classification qualifies as market dominant or competitive; is excluded from the postal monopoly; and reflects certain market considerations. These considerations relate to the impact on private enterprises engaged in delivery of the product, the views of those who use the product, and the likely impact on small business concerns.

The Postal Service states that the GEPS—NPR 5 product classification does not qualify as market dominant. *Id.* at 8. The Postal Service cites section 3642(b)(1), asserting that it does not exercise sufficient market power that it can effectively set the price of PMEI, PMI or GXG "substantially above costs, raise prices significantly,

decrease quality, or decrease output, without risk of losing a significant level or business to other firms offering similar products.” *Id.* at 8-9.

The Postal Service also states that the GEPS—NPR 5 product is not subject to the postal monopoly. 39 U.S.C. § 3642(b)(2). In this regard, the Postal Service states that the qualifying mail for GEPS—NPR 5 contracts, which consists primarily of merchandise shipped via GXG, PMEI, and PMI, falls outside the scope of the Private Express Statutes. *Id.* at 9.

With respect to whether the GEPS—NPR 5 product classification reflects the additional market considerations identified in section 3642(b)(3), the Postal Service references the Statement of Supporting Justification. *Id.*

Given its analysis, the Postal Service maintains that all the criteria of section 3642(b) have been met to justify adding the GEPS—NPR 5 product to the competitive product list. *Id.* The Public Representative agrees. The GEPS—NPR 5 product is the successor to the GEPS—NPR 4 Version 2 product, which the Commission classified as a competitive product. See PRC Order No. 1959. The Postal Service's changes to the GEPS—NPR 5 product classification do not affect the basic competitive services being provided or the market characteristics of the product, as compared to the GEPS—NPR 4 Version 2 product. Nor do the changes to the GEPS—NPR 5 Model Contract, which the Postal Service indicates are “relatively minor,” suggest that the product should be classified as anything other than competitive.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

Based upon a review of the financial model filed under seal with the Postal Service's Request, it appears the discounted prices derived from the methodology presented in the financial model should generate sufficient revenues to permit the GEPS—NPR 5 product to cover costs and thereby satisfy section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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